Sarah

Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

FILED

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DEPARTMENT OF REAL ESTATE
BY: [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

To: JC RUIZ CAPITAL GROUP INC. doing business as Maxima Home Loans; and JAMES ALFRED SANTANA, individually and as designated officer of JC Ruiz Capital Group Inc., Respondents	No. H- 38188 LA ORDER TO DESIST AND REFRAIN (B&P 10086)

The Commissioner ("Commissioner") of the California Department of Real Estate ("Department") caused an investigation to be made of the activities of JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED SANTANA.

Based on that investigation, the Commissioner has determined that JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans and JAMES ALFRED SANTANA have engaged in or are engaging in acts or are attempting to engage in practices constituting violations of the Business and Professions Code and/or Title 10, California Code of Regulations. ("Regulations").

FINDINGS OF FACT

1.

A. At all times mentioned, JC RUIZ CAPITAL GROUP INC. ("JCRCGI") was licensed or had license rights issued by the Department as a real estate broker. On December 13, 2007, JCRCGI was originally licensed as a real estate broker by and through JAMES ALFRED SANTANA as designated officer.

B. At all times mentioned, JAMES ALFRED SANTANA ("SANTANA") was licensed or had license rights issued by the Department as a real estate broker. On March 28, 1995, SANTANA was originally licensed as a real estate broker. At all times material, SANTANA was licensed as the designated officer of JCRCGI.

C. At all times mentioned herein, JCRCGI were licensed by the Department as a corporate real estate broker by and through SANTANA, as the designated officer and broker responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf of JCRCGI's officers, agents and employees, including SANTANA.

D. JCRCGI is a California corporation owned by Juan C. Ruiz (60%), president, and Joaquin Santamaria (40%), treasurer, unlicensed persons.

2.

At all times mentioned, in the Cities of Anaheim and Fountain Valley, County of Orange, Respondents JCRCGI and SANTANA, acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents operated a residential resale brokerage and engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers, including the solicitation for listings of and the negotiation of the sale of real property as the agent of others;

B. Code Section 10131(d). Respondents operated a mortgage and loan brokerage and engaged in activities with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance; and

C. Code Section 10131(d) and 10131.2. Additionally, Respondents engaged in the business of a loan modification and advance fee brokerage using the licensed fictitious business name Maxima Home Loans and the unlicensed name of First America Financial Consulting Inc. and EZ Financing. Respondents performed loan modification services with respect to loans which were secured by liens on real property for compensation or in expectation of compensation and for fees often collected in advance. Respondents contacted lenders on behalf of distressed homeowners seeking modification and restructuring of the terms of their home loans, forbearance plans, extenuation, foreclosure abatement, principal and interest reduction, loan refinance, and/or short sale services and advice.

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(JC Ruiz Capital Group Inc.)
(Residential Resale Audit)
March 30, 2012

3.

On March 30, 2012 the Department completed an audit examination of the books and records of JCRCGI dba Maxima Home Loans, First America Financial Consulting Inc., and EZ Financing, pertaining to the residential resale and loan modification activities described in Paragraph 4, which require a real estate license. The audit examination covered a period of time beginning on February 1, 2009 to October 31, 2011. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully set forth in Audit Report LA 110049 and the exhibits and workpapers attached thereto.

(Trust Account)

4.

During the audit period, JCRCGI did not maintain a trust account.

(Residential Resale Audit))

(Violations of the Real Estate Law)

5.

In the course of activities described in Paragraph 2A., above, and during the examination period described in Paragraph 3, Respondents JCRCGI and SANTANA, acted in violation of the Code and the Regulations in that Respondents:

(a) JCRCGI failed to maintain an accurate and complete columnar record for the trust funds received not placed in broker's trust account. Moreover, earnest money deposits (EMD) received was not posted correctly in the columnar trust record and the date for EMD received in the record was incomplete, in violation of Code Section 10145 and Regulation 2831.

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Buyer Name	Date Offer Made	Deposit Amount	Date Offer Accepted	Date in the EMD	Date Received In Trust Record
Sindy G.	08/06/10	$1,000	08/07/10	09/16/10	09/16
Moises M.	12/21/10	$1,500	01/24/11	02/28/11	02/28
Jacinto Medel N.	05/11/10	$1,000	05/11/10	03/19/11	03/19

In addition, the columnar trust record included commissions paid to JCRCGI's salespersons and pay proceeds paid to borrowers as trust funds received.

(b) Failed to place trust funds, including EMD, into a trust fund account in the name of the trustee at a bank or other financial institution not later than three business days following receipt of the funds by the broker or by the broker's salesperson, in violation of Code Section 10145 and Regulation 2832. Based on the sales files reviewed for the audit, in three (3) of the five (5) sampled sales transactions, JCRCGI held EMD's beyond three (3) business days following the acceptance of the offer without written authorization from the principals, including the tabled examples set forth below:

Buyer Name	Date Offer Made	Date Offer Accepted	Date of Disposition	Escrow Receipt
Sindy G.	08/06/10	08/07/10	09/21/10	2124
Moises M.	12/21/10	01/24/11	03/03/11	2154
Maria J. P. and Juan T.	05/11/10	05/11/10	03/23/10	2781

JCRCGI's practice is to hold the EMDs until the offer is accepted, and then forwarded the EMD's to the escrow company.

(c) Misrepresented to sellers that Respondents JCRCGI and Santana had received the earnest money deposits for the intended purchase of sellers residences that in fact JCRCGI had not received, in violation of Sections 10176(a) and 10177(g). including the tabled examples set forth below:

Buyer Name	Date Offer Made	Date Offer Accepted	Date on the EMD
Sindy G.	08/06/10	09/16/10	09/16/10
Moises M.	12/21/10	01/24/11	02/28/11
Joy O.	02/11/11	06/02/11	06/02/11
Jacinto & Edgar M.	05/11/10	05/11/10	03/19/11
Maria P.& Juan T.	09/09/10	09/09/10	09/20/10

(d) Failed to maintain a signed broker salesperson agreement with salespersons Diane Parra and Fernando Reveles Torres, in violation of Regulation 2726.

(e) Failed to disclose JCRCGI, dba "Maxima Home Loans" license number on solicitation materials intended to first point of contact with customers. As such, JCRCGI's , absence of disclosures is in violation of Code Section 10140.6(b) and Regulation 2773.

(f) Failed to retain all records of JCRCGI's activity during the audit period requiring a real estate broker license, in violation of Code Section 10148. The Departmental auditor requested documents for the audit examination: Records and documents related to JCRCGI's loan modification activities including but not limited to the loan modification log, loan modification transactions, loan modification agreements, hardship letters, modification payment form, and accounting records for the loan modification services provided.

(g) SANTANA failed to exercise reasonable control and supervision over the activity of JCRCGI's brokerage including the activities conducted by JCRCGI's employees and/or licensees as necessary to secure full compliance with the Real Estate Law, in violation of Code Section 10159.2. Additionally, SANTANA had no system in place for regularly monitoring JCRCGI's compliance with the Real Estate Law especially in regard to establishing, systems, policies and procedures to review trust fund handling especially as related to escrow trust fund handling for buyers and sellers, in violation of Code Section 10177(h) and Regulation 2725.

(Loan Modification Fraud and Dishonest Dealing)

6.

At all times mentioned herein, Respondents JC RUIZ CAPITAL GROUP INC. (JCRCGI), dba Maxima Home Loans and also unlicensed dba First America Financial Consulting Inc., and EZ Financing, and JAMES ALFRED SANTANA engaged in the business of a loss mitigation/loan modification service including operating an advance fee brokerage requiring a real estate license to operate, within the definition of Code Sections 10131(d) and 10131.2, as described in Paragraph 2 above.

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General Allegations

7.

During the audit period of December 13, 2007, and continuing hereafter to date, JCRCGI and SANTANA, doing business as Maxima Home Loans, a licensed fictitious business name, and doing business as unlicensed entities First America Financial Consulting Inc., and EZ Financing, all of which share the same ownership, address, staff and supervision and brokerage. Respondents and said unlicensed entities solicited economically distressed homeowners facing foreclosure and eviction from their homes, offered loss mitigation services to said homeowner-applicants seeking downward adjustments or payment extenuations to their home mortgages, charged, claimed and collected advance fees for services not rendered. Respondent JCRCGI and its owners, Juan C. Ruiz and Joaquin Santamaria, are the pay station for receipt of advance fees in the form of payments for loan modification services from all homeowner-borrowers irrespective of the fictitious business name of Maxima Home Loans and unlicensed fictitious business names of First America Financial Consulting Inc., and EZ Financing. All trust funds flow to JCRCGI and/or Juan C. Ruiz.

Specific Allegations

8.

Respondents collected advanced fees from said homeowner- applicants without possessing a pre-approved advance fee agreement from the Department. Thereafter, Respondents failed to obtain the loan modification including short sale services to the homeowner-borrowers, as set forth below:

9.

Through the instrumentality of unlicensed and licensed loss mitigation agents, JCRCGI and SANTANA, via their fictitious names of Maxima Home Loans, First America

Financial Consulting Inc., and EZ Financing, solicited distressed borrowers promising favorable rates and terms including downward adjustments or payment extenuations, in return for an average payment of $2,395, paid in advance. Thereafter, Respondents failed to obtain loan modifications or make refunds to the homeowner-borrowers, tabled below:

Table: Advance Fees Collected for Loan Modification Services

Complainant	Respondent	Advance Fee	Date Paid	Post SB 94	Unlicensed Agent
Maria H 1538 E. Robidoux St.	MHL/FAFCI EZ Financing	$2,395	$1,000 on 4/11/09 $1,395 on 4/25/09	No	Joaquin Santamaria
Arturo C. 317 S. Dale St.	MHL/FAFCI	$2,395	$2,395 on 4/17/09	No	Byron Osuna
Hermes R. 7001 Lanto St.	MHL/FAFCI	$2,395	$500 on 4/19/09 $1,895 on 5/19/09	No	Carlos M. Garcia Byron Osuna Joaquin Santamaria
Susan E. 1704 E. Saunders St.	MHL/FAFCI	$1,800	2/2/09	No	Luis Barrera
Victor P 2310 Lomita Verde Dr.	MHL/FAFCI	$1,995	$1,995 on 12/31/08	None	Joaquin Santamaria Vicky Vasquez
Maria L 6620 7th Ave.	MHL/FAFCI	$2,395	$500 on 4/3/09 $500 on 4/6/09 $500 on 4/18/09	No	Joaquin Santamaria Warner Rojas Tessie Frutos

			$895 on 4/30/09		
Aida R 318 N. Glenrose St.	MHL/FAFCI	$2,395	$300 on 3/2/10 $2,095 on 3/11/10	Yes	JCRGI
Francisco C 716 3rd St.	MHL/FAFCI	$1,995	3/24/09 Two deposits into Mora's account	Yes	Mora
Maria O 1809 E. 71st St.	MHL/FAFCI	$3,000		None	Juan C. Ruiz
Francisco M 755 E. Yucca St.	MHL/FAFCI /JCRCGI	$2,200			Bertha A. Furse Fernando Reveles Torres
Angel V 1595 Laselle St.	MHL/FAFCI	$7,980	2/19-09 to 7-23-09 (6 advance fees)		
Lydia P 521 Shelton St.	MHL/FAFCI	$2,395	8/27/10 $500 on 9/2/10 $1,895 on 9/25/10	Yes	Vicky Vasquez Juan C. Ruiz
("Sanchez") P.O. Box 875914	MHL/FAFCI	$2,395	11/28/09	Yes	JCRGI et al
Jose T 516 E. 35th St.	MHL/FAFCI	$2,295	12/14/09	Yes	Luis Barrera
Anne M (unknown)	MHL/FAFCI	$2,395	5-11-11	5-11-11	R. Buendia
		$39,430			

10.

The overall conduct, acts and omissions of Respondents JCRCGI and SANTANA constitute a breach of fiduciary duty of good faith, trust, confidence and candor, owed the homeowners contracting for loan modification services, within the scope of their contractual relationship, in violation of Code Sections 10176(a), 10176(i), 10176(b) and/or 10177(g), and constitutes cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

11.

Respondents JCRCGI and SANTANA intentionally engaged in the conduct set forth throughout the Accusation. Alternatively, Respondents engaged in negligent misrepresentation to their clients, the homeowner-borrowers seeking loan modifications herein, for which real estate licenses are required, in violation of Code Sections 10176(a), 10176(i) and/or 10177(g).

12.

The overall conduct of Respondent SANTANA constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of JCRCGI as required by Code Section 10159.2, and to keep JCRCGI in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of SANTANA pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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CONCLUSIONS OF LAW

13.

PARAGRAPH	PROVISIONS VIOLATED
5(a)	Code Section 10145 and Regulation 2831
5(b)	Code Section 10145 and Regulation 2832
5(c)	Code Section 10176(a) and 10177(g)
5(d)	Regulation 2726
5(e)	Code Section 10140.6(b) and Regulation 2773
5(f)	Code Section 10148
5(g)	Code Sections 10159.2 and 10177(h) and Regulation 2725

14.

The conduct of Respondents JCRCGI and SANTANA, as alleged and described in Findings 6 through 9, violated Code Sections 10085, 10085.6 (SAFE ACT), 10130 (JCRCGI) 10137, 10145, 10146, 10176(a), 10176(b), 10176(i), 10177(d) and 10177(g) and Regulations 2831, 2831.1, 2831.2 and 2970

15.

The conduct of Respondents JCRCGI and SANTANA, as alleged and described in Finding 10, violated Code 10177(g).

16.

The conduct of Respondents JCRCGI and SANTANA, as alleged and described in Finding 11, violated Code 10177(g).

17.

The conduct of Respondent SANTANA, as alleged and described in Finding 12,

17.

The conduct of Respondent SANTANA, as alleged and described in Finding 12, and in reference to Code Section 10159.2, violated of Code Sections 10177(d), 10177(g) and 10177(h).

DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that:

JC RUIZ CAPITAL GROUP INC. dba Maxima Home Loans, First America Financial Consulting Inc., and EZ Financing, and JAMES ALFRED SANTANA shall immediately, desist and refrain from performing any acts within the State of California for which a real estate broker license is required, unless in compliance with the Real Estate Law.

DATED: May 24, 2012.

REAL ESTATE COMMISSIONER

By WAYNE S. BELL
Chief Counsel

cc: JC Ruiz Capital Group Inc.
James Alfred Santana
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